

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1144

Introduced by Assembly Member Price

February 27, 2009

An act to add Section 1367.225 to the Health and Safety Code, and to add Section 10123.197 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1144, as amended, Price. Health care coverage: prescriptions.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act's requirements a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy that covers prescription drug benefits to provide specified coverage to subscribers, enrollees, and insureds.

This bill would ~~prohibit~~ *require* a health care service plan or a health insurer covering prescription drug benefits ~~from requiring a subscriber, enrollee, or an insured who has been prescribed a product for the treatment of pain by his or her health care provider to use a different specified product prior to authorizing coverage of the product prescribed by the health care provider to report to the Department of Managed Health Care or to the Department of Insurance whenever it requires an enrollee or insured to use certain pain medications prior to providing access to a pain medication supported by a federal Food and Drug~~

Administration approved indication or to a pain medication prescribed by the enrollee's or insured's health care provider, as specified.

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1367.225 is added to the Health and*
2 *Safety Code, to read:*

3 *1367.225. (a) A health care service plan that covers*
4 *prescription drug benefits shall report to the department whenever*
5 *it requires an enrollee to do any of the following:*

6 *(1) Use a pain medication supported only by an off-label*
7 *indication prior to providing access to a drug supported by a*
8 *federal Food and Drug Administration approved indication.*

9 *(2) Use more than two formulary alternative medications prior*
10 *to providing access to a pain medication prescribed by the*
11 *enrollee's health care provider.*

12 *(3) Use a pain medication, other than the medication prescribed*
13 *by the enrollee's health care provider, for more than seven days*
14 *prior to providing access to the prescribed medication.*

15 *(b) The report shall include a statement describing why the plan*
16 *was authorized to impose the requirement on the enrollee.*

17 *SEC. 2. Section 10123.197 is added to the Insurance Code, to*
18 *read:*

19 *10123.197. (a) A health insurer that covers prescription drug*
20 *benefits shall report to the department whenever it requires an*
21 *insured to do any of the following:*

22 *(1) Use a pain medication supported only by an off-label*
23 *indication prior to providing access to a drug supported by a*
24 *federal Food and Drug Administration approved indication.*

1 (2) *Use more than two formulary alternative medications prior*
2 *to providing access to a pain medication prescribed by the*
3 *insured's health care provider.*

4 (3) *Use a pain medication, other than the medication prescribed*
5 *by the insured's health care provider, for more than seven days*
6 *prior to providing access to the prescribed pain medication.*

7 (b) *the report shall include a statement describing why the*
8 *insurer was authorized to impose the requirement on the insured.*

9 SEC. 3. *No reimbursement is required by this act pursuant to*
10 *Section 6 of Article XIII B of the California Constitution because*
11 *the only costs that may be incurred by a local agency or school*
12 *district will be incurred because this act creates a new crime or*
13 *infraction, eliminates a crime or infraction, or changes the penalty*
14 *for a crime or infraction, within the meaning of Section 17556 of*
15 *the Government Code, or changes the definition of a crime within*
16 *the meaning of Section 6 of Article XIII B of the California*
17 *Constitution.*

18 ~~SECTION 1. Section 1367.225 is added to the Health and~~
19 ~~Safety Code, to read:~~

20 ~~1367.225. (a) No health care service plan that covers~~
21 ~~prescription drug benefits shall require a subscriber or enrollee~~
22 ~~who has been prescribed a product for the treatment of pain by his~~
23 ~~or her health care provider use an alternative prescription or an~~
24 ~~over-the-counter product prior to authorizing coverage of the~~
25 ~~product prescribed by the health care provider.~~

26 ~~(b) This section does not prohibit a health care service plan from~~
27 ~~charging a subscriber or enrollee a copayment or a deductible for~~
28 ~~prescription drug benefits or from setting forth, by contract,~~
29 ~~limitations on maximum coverage of prescription drug benefits,~~
30 ~~provided that the copayments, deductibles, or limitations are~~
31 ~~reported to, and held unobjectionable by, the director and set forth~~
32 ~~to the subscriber or enrollee pursuant to the disclosure provisions~~
33 ~~of Section 1363.~~

34 ~~SEC. 2. Section 10123.197 is added to the Insurance Code, to~~
35 ~~read:~~

36 ~~10123.197. (a) No health insurer that covers prescription drug~~
37 ~~benefits shall require an insured who has been prescribed a product~~
38 ~~for the treatment of pain by his or her health care provider to use~~
39 ~~an alternative prescription or an over-the-counter product prior to~~

1 authorizing coverage of the product prescribed by the health care
2 provider.

3 (b) ~~This section does not prohibit a health insurance policy from~~
4 ~~charging an insured a copayment or a deductible for prescription~~
5 ~~drug benefits or from setting forth, by contract, limitations on~~
6 ~~maximum coverage of prescription drug benefits, provided that~~
7 ~~the copayments, deductibles, or limitations are reported to, and~~
8 ~~held unobjectionable by, the commissioner and set forth to the~~
9 ~~insured pursuant to the disclosure provisions of Section 10603.~~

10 SEC. 3. ~~No reimbursement is required by this act pursuant to~~
11 ~~Section 6 of Article XIII B of the California Constitution because~~
12 ~~the only costs that may be incurred by a local agency or school~~
13 ~~district will be incurred because this act creates a new crime or~~
14 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
15 ~~for a crime or infraction, within the meaning of Section 17556 of~~
16 ~~the Government Code, or changes the definition of a crime within~~
17 ~~the meaning of Section 6 of Article XIII B of the California~~
18 ~~Constitution.~~